

NURSES' AWARENESS OF LEGAL IMPLICATIONS
IN THEIR CLINICAL PRACTICE

by

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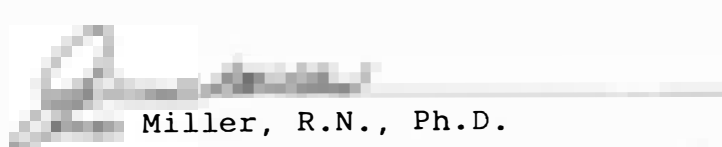
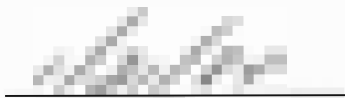

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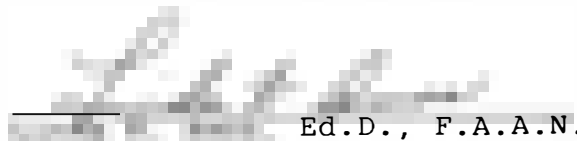
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ABSTRACT

Nurses' awareness of legal issues was assessed in this study. The dependent variable, legal knowledge, was represented by malpractice, standard of care, liability, negligence, suit-prone situations, and *res ipsa loquitur* doctrine. The independent variables were a) sex, b) age, c) education, c) clinical experience, and e) previous legal experience or inservice.

The level of legal knowledge was determined through a previously designed case study questionnaire.

The questionnaire was administered to a random sample of 40 full-time registered nurses at Woman's Hospital of Acadiana in Lafayette, Louisiana. A 93% completion rate was achieved. The returned questionnaires were scored according to answers marked correctly. The questions evaluated represented an overall total score as well as a score per individual legal category.

The independent and dependent variables were compiled and tabulated according to descriptive para-

meters. The overall total score of the legal questionnaire suggests that staff nurses have a basic understanding of legal issues. The legal topic categories of standard of care, liability, suit-prone situations, and *res ipsa loquitur* doctrine still require additional understanding.

Additional observation was that nurses were relatively young and recent graduates (within three to five years) of nursing programs. Overall, the younger nurses scored highest on the questionnaire. The independent and dependent variables were tested by correlation coefficients and noted to have no statistical significance at the .05 level.

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CHAPTER I

INTRODUCTION AND REVIEW OF LITERATURE

Introduction

Nurses constitute the largest single group of professional health personnel in the United States. They have always played a highly significant role in the delivery of health services, especially because of their ability to adapt to a wide variety of health care functions.

Since the 1900s, there has been an intense movement to expand the range of function and to broaden the scope of nursing practice to meet the increasing demands of the public on the American health system. The attempts to meet these demands and keep up with the increasing scientific and technological knowledge have resulted in an emergence of nurses with expanded education, training, responsibilities, and legal risks (DeAngelis, 1974).

Even though nursing's primary goal is still to provide nursing to those who need the care, the function,

specific tasks and procedures which are performed have changed markedly (Creighton, 1974). The newness and complexity of medical practice has led to a dangerous, and potentially risky, legal liability of health care providers.

With the explosion of societal knowledge, ordinary people know more about their health and the roles of health team members. If, in the course of health care provision, individuals are wronged or neglected, they are much more likely to raise issue. Average clients are now aware of their rights as patients. They are prepared to enforce their claims. Hence, those who render the nursing care must be equally versed in the law with respect to nurses' responsibilities and clients' rights (Creighton, 1974).

The profession of nursing itself, and the laws relating to it, are undergoing change. Nursing associations are focused on a new definition of the practice of professional nursing. In almost every state, a new legal definition of nursing is being developed and adopted (Creighton, 1974). Nationwide, nurses are involved with legislation in an attempt to define, expand, and promote the nursing profession. The laws considered have an intense application to the daily scope and practice of nursing.

Review of the Literature

Problem Statement

The studies reviewed suggested certain variables that related to legal risk potentials. These variables fell under the nursing functions of treatment administration, communications, supervision, medication administration, and foreign objects. High-risk patient care areas were also described in one study. The variables of these studies were represented in this study through a questionnaire representing legal knowledge.

The purpose of this study was to evaluate a possible indication for these highly documented risks. In relating the variables of sex, age, education, clinical experience, and previous legal involvement or inservice to the questionnaire measuring legal knowledge, it was determined if these variables have any effect on the legal knowledge registered nurses at a local hospital in Lafayette, Louisiana possess.

This investigation was the first step towards establishing a measurement tool to assess nurses' knowledge of the legal implications in their nursing practices. Once assessed, education can be directed to reduce the occurrence of legal incidents.

Conceptual Framework

Knowledge is complex; many entities enter into its definition. One of these is the theory of learning. Knowledge can be partially based upon experience with learning. An often agreed upon definition of learning is that given by Webster (1980), "to gain knowledge or understanding of or skill in by study, instruction, or experience; to memorize."

This section defines learning theory. It describes factors that affect learning and discusses the process by which learning develops into knowledge. The intent of this conceptual framework is to explain how people learn and gain knowledge.

The work of Thorndike suggests that responses which lead to satisfying states of affairs will increase in probability and responses that lead to discomforting or annoying states of affairs will decrease in probability (Dember & Jenkins, 1970). Arieti (1967) defines this concept of association and learning as the three modes of cognition theory. The first mode is that of contiguity. He states that data experiences together tend to be reexperienced together. The recurrence of one tends to elicit the recurrence of the other. He further expands this concept in his second mode by explaining that

the elements do not need to be experienced together in the absolute sense. The perception of them is simultaneous or overlapping or contiguous in time. An acquired response is extended to similar situations. Similar situations have identical elements and can be learned by the process of transfer. In his last mode, that of similarity, Arieti clarifies his theory by stating that similar or identical elements are readily associated. An individual responds as he would to a previous situation because of the presence of identical elements in the old and new situation.

Another law developed by Thorndike is the Law of Exercise. This holds that the connection of a response to a situation is increased in proportion to the numbers of times that it has been connected with that situation in the past (Dember & Jenkins, 1970). The concept of experience is related to this theory. The more an individual experiences the same or similar situations, the more connected the response becomes.

Closely related with this law is the notion of memory and forgetting. Ebbinghaus was given credit by Dember and Jenkins (1970) as the philosopher who undertook the task to examine learning and memory in the late 1870s. Ebbinghaus claimed that memory

consisted of the association between ideas or events. These associations are the product of experiences that are contiguous in time. Ebbinghaus' theory was supported by his research findings: a) a lot of material is harder to learn than a small amount (Figure 1) and b) forgetting was shown to be very rapid at first over time, but then proceeded more and more slowly (Figure 2).

Dember and Jenkins (1970) discuss their three modes of forgetting as a) interference theory, b) retroactive theory, and c) proactive theory. Interference theory suggests that other activities and experiences interfere with the retention of material that has been learned. It becomes apparent that forgetting is not merely a factor of the passage of time,, but also of what the subject does during that time. Hilgard and Bower (1966) add support to this concept by explaining that when learning occurs completely in one trial, that which was last done in the presence of a stimulus combination will be that which will be done when the stimulus combination next occurs.

The second mode of forgetting is retroactive theory. This theory hypothesizes that the nature of the interference is due to new responses that get

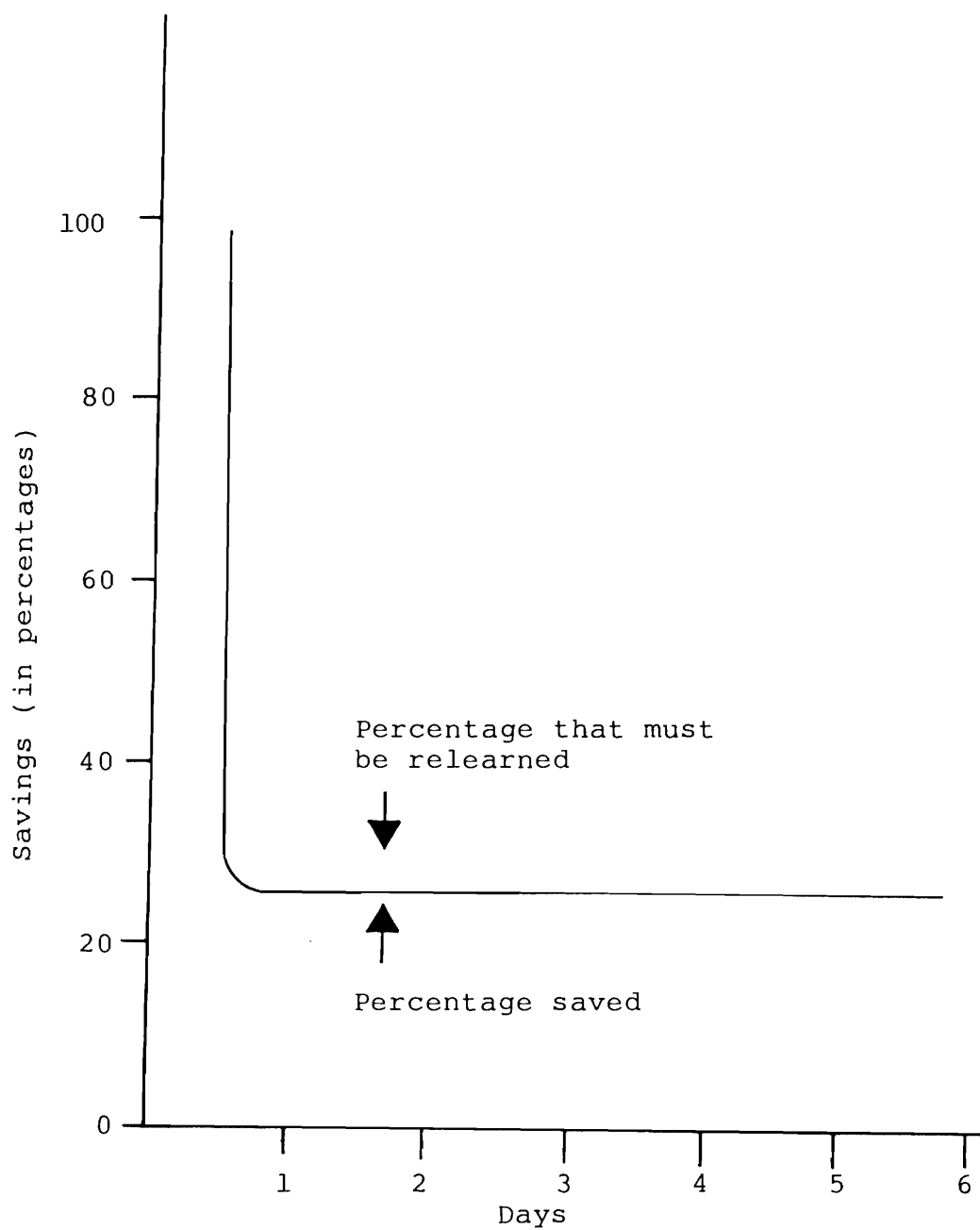


Figure 1. Savings by percentages in terms of trials needed to relearn a list of nonsense syllables (Adapted from Dember & Jenkins, 1970, p. 391).

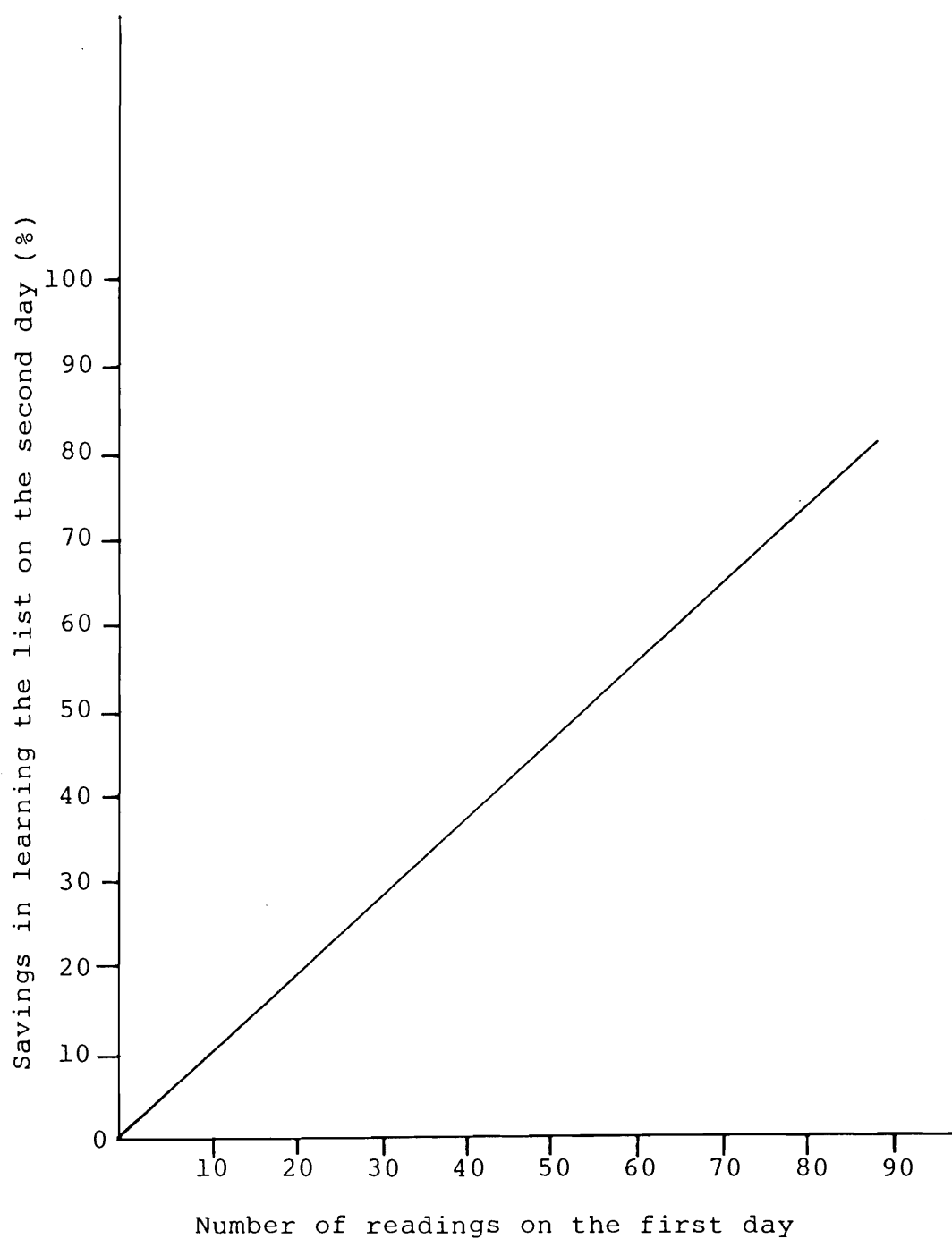


Figure 2. Savings on learning a list that had various numbers of readings on the preceding day (Adapted from Dember & Jenkins, 1970, p. 392).

attached to the stimuli of the original learning task. Some forgetting is attributable to disruption from general activity and some is attributable to competing or activity interfering responses that get in the way of correct responses at the time of recitation or relearning. Finally, some forgetting is due to unlearning of the original material that takes place during intervening learning of other materials.

The last theory of forgetting discussed is proactive interference. This concept explains the effect of previous learning on the retention of material most recently learned. Old learned patterns are not obliterated by new learning and this interferes with the ability to recall the new patterns. This is experienced when old traditional, convenient methods still continue to exist and interfere in the process of learning new techniques or approaches to general nursing practice.

Some of Ebbinghaus' research also focused on overcoming forgetting. One of his explanations of rapid forgetting was that the material had just barely been learned. His hypothesis was that the cure of the problem would be to overlearn the material in repeated learnings. His studies demonstrated that

repetition leads to superior retention of material later and that relearning leaves material in a better condition with respect to permanent memory than did the learning the day before (Dember & Jenkins, 1970). Daily exposure to clinical practice, and potential legal consequences reinforce the theoretical concepts learned about nursing practice and its legal ramifications.

Once the fundamental steps of learning are understood, cognitive behavior theory should be considered. Cognitive theory will be only briefly discussed, since its total content is beyond the scope of this paper. Its effect on learning is an important consideration. Cognitive elements are thought of as ideas, attitudes, beliefs, values, representation of past behavior, or expectations about future events. These are critical aspects in an individual's behavior. Once learning has occurred, these elements play an important part in behavior (Shaver, 1977).

Three possible relationships exist between these cognitive elements: consonance, dissonance, and irrelevance. Consonance exists when two cognitive elements are in relationship with each other. It is possible for cognitive elements to have no psychological implications whatsoever, and these elements

would be in a relation of irrelevance (Shaver, 1977).

Dissonance exists between two cognitive elements whenever one implies the opposite of the other.

It can be conceived as a violation of expectancy.

An example is when one's expected learned behavior is different from one's attitude or belief.

Dissonance is unpleasant and should motivate individuals to move towards a consonance state. Shaver describes four methods to move towards a consonance state as: a) change the behavior to meet the attitude, b) change the attitude to meet the required behavior, c) add elements consonant with the required behavior, and d) change the importance of either the consonant or dissonant elements. The change of private attitudes in order to make those attitudes agree with overt behaviors is often seen because of mandated nonflexible behavioral requirements.

An individual's knowledge and behavior about legal aspects in clinical practice becomes a composite of learning and attitude. The learning process is summarized as an integration of experience, education, interaction of old and new learning, time, and repetition of events. One's sensitivity in terms of attitudes and reaction to expectations finalizes the step toward behavior.

This conceptual framework describes the methods used in learning. In review, it discusses how one learns various required skills of practice. It specifically demonstrates how learning occurs through the process of association and experience, and how memory or forgetting can interrupt this process.

Nurses, as human subjects, learn by utilizing all processes defined. In evaluating the theories associated with this study, both the theory of "Law of Exercise" by Thorndike, and that of "Forgetting" as described by Dember and Jenkins are represented.

The independent variables in this study which represent experience, years of practice, previous legal experience, and age associate with the "Law of Exercise" theory. This theory suggests that the more frequently nurses are associated with or practice the legal information once learned through education or job opportunity, the more connected the legal knowledge should become.

In the theory of "Forgetting," it is suggested that learning can be forgotten by interfering. In evaluating the independent variables of age, experience, previous legal experience, general nursing education, and present working experience, the association of this theory will be shown. The answers to the question-

naire measuring legal content demonstrated if knowledge was dependent on the nurse's present or previous work experience, association with previous legal issues, and/or years of practice in the nursing profession. The questionnaire measured whether nurses have had other "interfering situations" from the time of their initial nursing education on legal issues.

Literature on Legal Matters

Law is the sum total of rules and regulations by which society is governed. It is man-made and it regulates social conduct in a formal and binding manner. The law, however, is not rigidly fixed, but a composite of court decisions, state and federal statutes, regulations, and procedures.

Laws regulating human social conduct are derived from two basic sources. One source finds expression in formal legislative enactments generally referred to as statutes or statutory law. An example of this is law passed by legislative bodies. The second source of law is common law. These laws are made from judicial decisions which interpret legal issues raised in disputes taken to court (Murchison & Nichols, 1970).

There are two main classifications of law,

criminal and civil law. Criminal law deals with conduct classified as offensive to society as a whole. Civil law is concerned with the legal rights and duties of private persons.

The general category of civil law with which health professionals are concerned is called the "law of torts." A tort is defined as a legal or civil wrong committed by one person against the person or property of another. It is a civil wrong for which the court will provide a remedy in the form of an action for damages (Murchison & Nichols, 1970).

The common thread woven into all torts is the idea of unreasonable interference with the interest of others. Liability is based on conduct which is socially unreasonable. Often, a dilemma exists between what is reasonable or unreasonable. The definition of reasonable care in regard to health care practitioners is generally understood as:

that degree of skill and knowledge customarily used by a competent health practitioner of similar education and experience in treating and caring for the sick and injured in the community in which the individual is practicing or learning his profession (Hemmett & Mackert, 1978, p. 11).

The two major categories of law affecting health care and legal standards are negligence and liability. Negligent law is a broad field which includes conduct

that is irresponsible. Every person is always responsible for conducting himself in a reasonable and prudent manner. When a person fails to conduct himself in the prescribed manner, and thereby does harm to another, the law says he is legally negligent.

Negligence embraces the area commonly referred to as malpractice, since it includes the negligent conduct of professionals. Liability refers to the state of being held legally liable or responsible. If one is said to be legally liable to another person, he is legally responsible for the negligent conduct which caused harm to another person (Hemmett & Mackert, 1978).

There is a large body of literature today regarding law and nursing. The literature is found not only in books, but also in periodicals, reports, and documented research studies. The books discussed law in general and the aspects of law affecting the profession of nursing. Creighton (1981), a known nursing law author, presents basic facts of law intended to acquaint the nurse with rights and duties. Murchison and Nichols (1970) are committed to the idea that nurses are professionals, and they discuss the legal account of a professional and independent practitioner. Finally, Bernzweig (1975) has designed

a study program in her book to represent the nurse's responsibility with his/her legal liability as a professional.

Nursing periodicals communicate the same type of legal information but on a smaller scale. It is not uncommon to find in nursing and health care journals some information about legal standards and health care, be it awareness, court decisions, standards, liability, insurance protection or just debate. A common legal report published monthly is the Regan Report. Each issue covers one special problem in nursing services, cites legal briefs, includes courts' opinions, and gives a monthly lesson on a current topic of significance to nursing.

Nursing Studies

Only two studies significant to this research were found. They indirectly reported registered nurses' knowledge of legal aspects. The first study reviewed types of incidents occurring in a pediatric institution (Campazzi, 1979). The second discussed nursing malpractice and litigation (Friedman, 1978). It documented the type of incidents nurses were found to be involved with. Even though neither of these studies directly represented the research, their information proved to be valuable to this study.

Campazzi (1979) conducted research of litigation in the state of California from 1967-1977. The purpose of the study was to determine trends in the number of malpractice cases involving nurses and nursing practice, and to provide information regarding the nature of the claims.

The data for the study were collected from the primary source of common law cases published by the National Report System in the Federal Reporter and seven regional reporters. Only appealed cases were studied. A total of 1,696 law cases reported between January 1967 and January 1977 was read by the investigator. The two criteria required were: a) the word nursing or its implication must have been used in the case and b) the lawsuit must have been concerned with an activity in which a nurse or other person was involved in the practice of nursing as outlined by the ANA Practice Act. There were 395 cases that met the criteria.

The overall incidents studied involving lawsuits demonstrated that 87.7% occurred in general hospitals, 21% in nursing homes, 14% in psychiatric centers and 13% in physician's offices. Of the 87.7% occurring in general hospitals, 36.4% were incidents on surgical units, 19.4% on medical units, 13.5% in labor and

delivery, 5.9% on pediatric units and the lowest shown at 1.38% in intensive care units.

The nine classifications of litigations that grew out from the study were: a) administration of treatment, b) communication, c) supervision of patients, d) administration of medication, e) foreign objects left in patients, f) postoperative injuries and infections, g) anesthesia given by nurse-anesthetists, h) assisting with ambulation of movement, and i) miscellaneous.

Each category searched evaluated the nature of the claim, its percent of occurrence, and the extent of nursing involvement. Under the category of administration of treatment, such items as bedrail usage, restraint usage, catheterizations, and application of external heat were included. This category comprised 19% of the total incidents reviewed. The category of communications showed that 18.2% of the time, the instigating factor was in some way attributable to communication problems. These included such issues as informed consent, the choice to observe or report a patient's worsening condition, and questions about nurse's notes. Under the category supervision of patients, 16.9% of the total cases involved damages from alleged lack of supervision. In at least one-

half of these cases, reports stated that the alleged negligence was the direct responsibility of someone in nursing service.

The category of medication administration demonstrated that there were 7% of the incidents involved with administration of medication. Nine percent of the cases were included in the category of foreign objects. These were strictly related to objects left in the patient during surgery and thus both physicians and nurses were named. Postoperative injuries and infections comprised 9% of the cases. Again, these were related to surgical procedures and postoperative care. The final category was that of ambulation. It showed that 3.8% of the cases were initiated as a result of injuries allegedly incurred while patients were being assisted in ambulation or some kind of movement by persons engaged in nursing practice.

Campazzi's study also assessed trends in the malpractice cases reviewed. No apparent trend existed in the number of malpractice cases with nurses and the practice of nursing. However, there was an increase in the number of cases in the latter five years. Reasons suggested by Campazzi for the increase were: shorter hospital stays, increases in third party

payments, increase in population, advances in science and technology, increased life span, increased specialization of nurses, and the increased litigious nature of the general population (Campazzi, 1979).

Campazzi (1979) also reported the court's opinions about nursing, interpreted by court decisions made on reviewed cases. The data suggested that supervision was rarely considered an issue in the courts. Independent practitioners were seldom sued, whereas hospital and health institutions along with physicians were first-named defendants in the majority of cases filed. The courts tended to view nurses in independent roles subject first to the orders of physicians often followed by some independent judgment. The courts expected nurses to use independent judgment in the supervision of patients, and in executing medical orders. They also expected nurses to use a high degree of independent judgment in observing and reporting a patient's condition. A problem documented by the study was that courts often lacked an understanding of what nurses did. This is a critical need often overlooked by nurses in the profession.

In evaluating Campazzi's study, a few weaknesses were noted. One was the lack of explanation regarding

why certain documented incidents were occurring at the frequency they were. Another was the failure to indicate the position or educational level of the nurses committing the incident. The background of each nurse could have varied on the basis of education and experience. The strengths of Campazzi's study were contained in the data. High-risk incident areas, and suggested trends of these incidents were identified. The recommendations suggested further study to determine a means of minimizing the occurrence of further negligence, and that education to nursing personnel about legal issues was important (Campazzi, 1979).

Friedman conducted research on incident reports. The retrospective study consisted of analyses of incident reports for the year 1976 at St. Louis Children's Hospital (Friedman, 1978). The hospital study recorded 164 patient incidents in 1976. The purpose was to determine if factors involving children in accidents would be different from those affecting adults. Friedman's discussion documented that the medical-surgical areas of adult hospitals tended to experience a greater number of all types of accidents. Falls and medication errors tended to head the list of incidents occurring.

The St. Louis Hospital study analyzed the variables of sex, time of day, unit of occurrence, age, and type of incident documented.

The findings were summarized. Falls comprised 16.5% of the incidents, while 63.4% were attributed to medication errors. A total of 20% was classified as "other." The two units experiencing the greatest number of accidents were both the medical units, which were named infectious and neonatal. Three other medical-surgical areas comprised 38%, and the rest were dispersed among the remaining floors.

Falls were noted to occur more frequently on the general and infectious unit with 59% of the total, while 26% of the total existed on the medical unit. Medication errors were shown to occur most frequently on the infectious and neonatal unit at 63.4%. Even though these accidents were documented in these certain hospital areas, the opportunity of an accident occurring on a specific type or particular unit in the institution was not statistically significant.

The age group varied according to the type of accident. Patients between the age of two and three years experienced the majority of falls. Medication errors were higher in the two-day to one-year old group. No significant correlation with time of day

in which the accident happened existed. The study did verify that the same type of accidents that occur most frequently in adults compare to those in a children's hospital (Freidman, 1978).

The evaluation of the St. Louis Hospital study showed strength in identifying the units of the hospital acquiring the most incidents. The medical-surgical unit was ranked as the unit with the highest number of incidents, with the neonatal unit ranking second. The weakness found with the study was the lack of data demonstrating the reason for the high incidence in the units. This weakness was of interest in proposing this present study.

Research Questions

The following questions were investigated in this research project:

1. To what extent do the independent variables of age, sex, education, clinical experience, and previous legal inservices or involvement affect the level of legal knowledge of registered nurses?
2. What do registered nurses know about the legal implications of the clinical decisions they make regarding patient care?

Assumptions

The primary assumption of this study is that legal standards are an integral part of nursing care. Knowledge of the legal implications regarding patient care is a nursing responsibility.

The second assumption was that all questionnaire respondents were truthful in the information they provided.

Limitations

Several limitations of the study exist. A limited research baseline exists in the area of legal issues. Subject data were limited in generalizability. The study results cannot be statistically generalized to a larger population because the sample is confined to one selected hospital in one geographical location. In addition, the sample size was limited to 40 participants making it difficult to evenly distribute the groups according to educational preparation. The instrument did not have a previous documented reliability and/or validity. However, a pilot study was conducted.

CHAPTER II

METHODOLOGY

Design

Both the weaknesses and recommendations of Campazzi and Friedman's research were considered in the selection of this research topic. By utilizing the demographic questionnaire, the educational level and background experiences were evaluated. This demographic information was correlated with the responses on the legal questionnaires. Similar to Campazzi's study, the questionnaire utilized case studies representing areas of treatment administration, communication, supervision, medication administration, and foreign objects in the evaluation of legal knowledge. In relating to Friedman's study, the demographic data reflected previous nursing units and present nursing unit experience. This information was correlated with the legal questionnaire to measure legal knowledge.

The design of the research was a descriptive correlational investigation of the independent vari-

ables of age, sex, education, clinical experience, and previous legal inservice or involvement with the dependent variable of legal knowledge.

Setting of the Study

The data collected for the study were obtained at Woman's Hospital of Acadiana, Lafayette, Louisiana. This facility is a 90-bed referred hospital for obstetrical, gynecological, and neonatal intensive care.

Population

The population was registered nurse staff employed at Woman's Hospital of Acadiana. The total number of registered nurses employed in the hospital was approximately 90. There was a mixture of Associate, Diploma, and Baccalaureate educationally prepared nurses. The majority of nurses employed had previous or present experience in either obstetrical, gynecological, medical-surgical, or neonatal care.

Sample

The sample consisted of 40 full-time registered nurses who were chosen on a random basis from the population. The total population of registered nurses employed at Woman's Hospital of Acadiana was grouped according to units worked. A random table of numbers

was used for each unit. An equal quantity of nurses per unit was chosen as the representative sample of the hospital.

Variables

The independent variables include the demographic information of sex, age, length of practice as a registered nurse, educational preparation, and previous legal education or involvement in a legal situation.

The variables were addressed in the demographic questionnaire. The length of practice as a registered nurse was measured when the subject indicated years of experience in a hospital, and years of general practice in the state. Educational preparation was indicated when highest degree was marked. The independent variables of previous legal education or involvement were measured by the demographic questions that specifically ask if there had been any involvement or education on legal aspects.

The dependent variables were measured by the legal questionnaire. Each question represented a category measured under legal awareness. The questions represented the categories of malpractice, standard of care, liability, negligence, suit-prone situations, the doctrine res ipsa loquitur, and a general overall total of the questionnaire.

Instrument

The tool used was a questionnaire consisting of 15 demographic and 45 multiple choice questions. These questions were taken from "The Nurse's Liability for Malpractice," a self-study program test developed by Bernzweig (1975).

Data Collection

At Woman's Hospital of Acadiana, 40 full-time registered nurses were selected at random during their orientation period to the hospital, and given the questionnaire. Thirty-seven (93%) of the questionnaires were completed and returned. The overall sample ranged in age from 23 years to 43 years, with a mean age of 30.5 years. All nurses sampled were female.

A pilot study of the questionnaire was conducted by testing six full-time registered nurse participants employed at Woman's Hospital of Acadiana. The pilot study nurses did not participate in the actual study conducted later. These pilot study participants had six months previous experience as a registered nurse in a hospital setting.

The questionnaire was critiqued for clarity and evaluated for test-retest reliability. The correlation factor of the pilot test was .99 by Pearson

r correlation (Table 1). The questionnaire had face validity.

Table 1
Pilot Study Scores

Subjects	Test 1	Test 2
Subject A	25 - 56%	23 - 51%
Subject B	32 - 71%	30 - 67%
Subject C	34 - 76%	37 - 82%
Subject D	30 - 67%	34 - 76%
Subject E	28 - 62%	31 - 69%
Subject F	28 - 62%	28 - 62%

Note. There were 45 total points.

CHAPTER III

DATA ANALYSIS

The focus of this study was to analyze registered nurses' knowledge of legal awareness in their clinical practice and to measure the extent of the relationship between legal knowledge and the variables of age, sex, education, clinical experience and previous legal experience. Legal knowledge was represented by a) malpractice, b) standard of care, c) liability, d) negligence, e) *res ipsa loquitur*, and f) suit-prone (Table 2) situations. The overall legal knowledge score was also considered a dependent variable in the study.

The independent variables were divided to represent certain categories of the demographic data. The categories represented were educational level, clinical experience, and previous legal experience or inservice. The data obtained from the questionnaire were arranged and tabulated according to descriptive parameters (Table 3). The range, mean, and standard deviation for each category as well as

Table 2
Categories of Variables

Dependent Variable	
Category of Legal Knowledge	Representative Questions
1. Malpractice	1. Case Study 1, Questions 7-5
2. Standard of Care	2. Case Study 2, Questions 7-3, 7-4
3. Scope of Practice	3. Case Study 3, Questions 7-2, 7-6, 7-7
4. Liability	4. Case Study 3, Questions 7-1
5. Negligence	5. Case Study 4
6. Suit-Prone Situations	6. Case Study 5
7. Res ipsa loquitur doctrine	7. Case Study 6
Independent Variable	
Category of Demographic Data	Representative Questions
1. Educational Level	1. Questions 3 and 6
2. Years of Clinical Experience	2. Questions 1, 4, and 5
3. Previous Legal Experience	3. Questions 8, 9, and 10
4. Age	4. Question 1
5. Type of Clinical Experience	5. Question 7

Table 3
Legal Questionnaire Category Scores

Category	Range	Mean	Standard Deviation
1. Total Test	49%-87%	71.3%	8.2%
2. Malpractice	50%-100%	85.4%	13.7%
3. Standard of Care	29%-100%	69%	16.8%
4. Liability	46%-92%	71%	13.8%
5. Negligence	50%-100%	84.5%	17%
6. Suit-Prone Situations	15%-100%	66.6%	18.3%
7. Res ipsa loquitur doctrine	10%-86%	56.5%	20.2%

Note. $p < .32$

total score are shown.

Overall scores on the questionnaire showed a range of 49% to 87% with a total mean score of 71.3%, and a standard deviation of 8.21%. An analysis of scores per category is shown in Table 3. The categories as labeled represent the overall total knowledge of legal implications in this study. The category of "malpractice" shows a range of 50-100%, with a calculated mean of 85.4%. The "standard of care" category exhibits a score range of 29%-100%, with a mean of 69%. The "liability" category reflects that the range was from 46%-92% with a mean of 71%. In comparison, the "negligence" category indicates a wide range with the score falling between 50%-100%, and a mean of 84.5%. The two widest ranges displayed are the "suit-prone" category showing a range of 17%-100%, with a mean of 66.6% and the "doctrine of res ipsa loquitur" with a range of 10%-86%, and a mean of 56.5%.

Another descriptive parameter analyzed was the nurse's age with test score per category, and total overall score (Table 4). The age group of 26-30 years was the group that scored highest on the overall questionnaire. The nurses in the age group of 31-35 years ranked highest on the "malpractice" category.

Table 4
Frequency Table: Relationship of
Age Group and Test Scores

Category	Age Groups				
	20-25	26-30	31-35	36-40	41-45
Total Test Score					
49-55			1		
59-60			1		
61-65				1	
66-70	4		2	3	1
71-75	2	2	1	1	
76-80	3	3		1	
81-85	1		3		
86-90	1				
91-95	2	5			
Malpractice Scores					
50-55	1				
56-60					
61-65	2		1	1	
66-70		1			
71-75		3		2	
76-80					
86-90	3	2	7	2	1
91-95	4	1	3	1	1
96-100					
Standard of Care Scores					
27-36				1	
37-45	1	1		1	
46-54	1		1		
55-63	1	2		1	
64-72	3	2	5	1	
73-81		2	1		
82-90		1	3	1	
91-100	1				

Table 4 (Continued)

Category	Age Groups				
	20-25	26-30	31-35	36-40	41-45
Liability Scores					
44-48	1		2	1	
49-54	1	2	2		
55-60					
61-66			1	1	
67-72	2	1	1		
73-78	5	2	1	1	
79-84		1			
85-90	1	2	2		
91-95					
Negligence Scores					
50					
75	2	5	7	1	
100	5	4	4	6	
Suit-Prone Situation Scores					
15-20	1				
21-30					
31-40		1			
41-50	2	1	5	3	
51-60					
61-70	2		4		
71-80				1	2
81-90	3	2	4	2	
91-100	2				

Comparably, under the "standard of care" category, the age group of 31-35 years ranked highest. The youngest age group studied, that of 20-25 years, ranked highest on the category of "liability," while inversely one of the oldest groups, the 36-40 years group, ranked highest on the "negligence" category. The category representing "suit-prone situations" demonstrated the 20-25 years group ranking highest. Representing the highest ranked age group for the scores on the "res ipsa loquitur" category was the 26-30 year age group.

The independent variable, "educational preparation," divided the sample into the categories of a) associate-6 nurses, b) diploma-11 nurses, and c) baccalaureate-20 nurses. These three categories were then analyzed with respect to each other in relationship to the dependent variables (Table 5). The dependent variable category, "total score," reflected that the baccalaureate prepared nurses scored higher on the questionnaire than the other two groups. Under the category of "malpractice," the diploma-prepared nurses scored the highest with a mean of 93.4%, while the baccalaureate-prepared nurses had a 82.1%, and the associate-prepared nurses scored 81.6%. Under the "standard of care" category, the highest mean score indicated was with the baccalaureate group at a mean

Table 5
Mean Scores by Education

Category	Associate	Diploma	Baccalaureate
Total Test	71.5%	69.3%	72.4%
Malpractice	81.6%	93.4%	82.1%
Standard of Care	61.3%	65.8%	73.2%
Liability	70.6%	65.8%	73.5%
Negligence	95.8%	79.5%	83.8%
Suit-Prone Situations	61.1%	68%	67.5%
Res ipa loquitur Doctrines	64.3%	47.5%	59%

Note. $p < .32$

of 73.2%, followed by the diploma group at 65.8%, and the associate group at 65%. The "liability" category displays the baccalaureate-prepared group ranking highest with 73.5%, the associate group following with a 70.6% and the diploma group with a score of 65.8%. The "negligence" category showed that the associate-prepared group was highest with a mean of 95.8%, the baccalaureate-prepared group had a score of 83.8%, and the diploma-prepared group, 79.5%. The diploma-prepared group scored highest in the "suit-prone" category with a mean of 68%, yet the group's scores were relatively close as the baccalaureate group had a mean of 67.5%, and the associate group with a mean of 61.1%. The last dependent variable, "res ipsa loquitur" doctrine, indicates that the associate-prepared group ranked highest at 64.3%, with the baccalaureate-prepared group at 59%, and the diploma-prepared group at 47.5%.

The remainder of the data evaluated from the demographic questionnaire indicated that the mean ages of the nurses sampled (Table 6) was: a) the baccalaureate-prepared group had a mean age of 29 years, b) the diploma-prepared group had a mean age of 32 years, and c) the associate-prepared group had a mean age of 32.5 years. The years of experience per

Table 6
Mean Age According to Education

Education	Mean Age
Associate	32.5 Years
Diploma	32 Years
Baccalaureate	29 Years

educational preparation (Table 7) demonstrated that the baccalaureate-prepared group mean was 4.4 years, while years in the state of Louisiana was 4.6 years. The diploma-prepared group had a mean of 7 years of experience with 5 of those obtained within the state of Louisiana. The associate degree group had a mean of 6.2 years of experience with 4.7 of those years experienced in the state of Louisiana. The overall total sample mean for "years of experience" was 5.4 years with 4.77 years experienced in the state of Louisiana (Table 8).

Other independent variables measured and analyzed demonstrated that 62% of the nurses in the sample had obtained their educational preparation in the state of Louisiana, while 38% had obtained it outside the state. The independent variable measuring the type of experience indicated that 92% of the nurses had some type of previous acute care hospital experience while the other 8% had obtained their experience from a medical office setting. Only two nurses had previous experience with legal issues. One nurse indicated she had been involved with a litigation case as a witness, and the other nurses had attended a legal workshop.

A Pearson r correlation was employed to measure

Table 7
Mean Years of Experience
According to Education

Education	Mean Years of Experience
Associate	6.2 Years
Diploma	7.0 Years
Baccalaureate	4.4 Years

Table 8
Years Practicing in State of Louisiana
According to Education

Education	Years of Practice in State
Associate	4.7 Years
Diploma	5.0 Years
Baccalaureate	4.6 Years

if significant correlations existed between the independent variables of sex, age, education, clinical experience, and previous legal experience and the dependent variables of malpractice, standard of care, liability, negligence, *res ipsa loquitur* doctrine, and suit-prone situations. There were no significant correlations at the .05 level.

CHAPTER IV

DISCUSSION OF FINDINGS

The investigator undertook this study to inquire about nurses' awareness of legal knowledge, and to measure the relationship of demographic data to legal knowledge. In reflecting on the conceptual framework, the theories of learning associated with this study are those of the "Law of Exercise," by Thorndike and "Forgetting" described by Dember and Jenkins.

The "Law of Exercise" suggests that the longer nurses are associated with an object, experience, or information, the more connected it should become. The demographic data evaluated parameters of age, years of experience, educational preparation, and previous legal experience to measure if these criteria made any difference with outcome in scores on the legal questionnaire.

The theory of "Forgetting" asserts that learning can be forgotten through interference. Again, by assessing the data on the demographic questionnaire, age, years of experience, and previous legal knowledge,

the same information can be obtained. The mere aspect of age and years of experience could imply that the longer one is in a certain situation the more the chance there is of learning "new" information which could interfere with previous learning.

The correlation analysis done to evaluate if the demographic factors of age, sex, education, clinical experience, and previous legal experience affect the level of legal knowledge of registered nurses at Woman's Hospital of Acadiana did not show any significant correlation. For this study, the descriptive data are presented to demonstrate the relationship of independent and dependent variables. This analysis showed the extent the independent variables affected the level of legal knowledge.

The overall total score of legal knowledge of the registered nurse subjects studied at Woman's Hospital of Acadiana indicated that the nurses were moderately knowledgeable about legal matters. The standard deviation showed a minimal variance in the total score. There was no standard to evaluate the scores against, only to state that the scores were fairly consistent with the pilot study group scores. Overall, the younger age group of nurses ranked highest on the total score. It can be assumed because of their age

that most of these nurses were new or recent graduates with some experience in the clinical practice of nursing. Together, the components of recent education and that of clinical practice support the theory of "exercise" and contributed to the outcome of the ranking on the total score. The educationally prepared group ranking highest was that of the baccalaureate degree. These nurses were new graduates of educational programs where discussion of legal issues was probably programmed into their curriculum. The baccalaureate programs usually have the available theoretical time to discuss such concepts as legal issues, whereas the other educational programs often lack this flexibility with time, and usually focus on clinical aspects.

Each individual category within the total questionnaire was evaluated separately. The "standard of care" category and "liability" category show that the baccalaureate prepared nurses ranked highest. Yet, there was a difference among age groups. The recent educational preparation contributed to the basic knowledge for the "liability" category yet the clinical experience beyond the point of education seemed to be the significant component in the "standard of care" category. The age group of 31-35

years tended to indicate that clinical experience contributed to the legal awareness of "standard of care." The frequency with which nurses work with various types of patients, and within the hospital itself exposing themselves to policies and procedures, allows for the exposure to learn a certain "standard" in caring for patients. This clinical exposure is often not obtainable to the new graduate because of the limited clinical experience in the nursing educational system. Newly graduated nurses scored highest on the "liability" category. Recent nursing education could account for this. With society's awareness of legalities, and focus on legal claims, nursing education is now more inclined to expose the graduate nurse to legal issues. Also, the general category of "liability" is often the focus of hospital orientation programs. So, even though the nurse may be a new graduate, the exposure to legal issues, even if theoretical, should be recent.

The diploma-prepared nurses scored highest on the "malpractice" category as well as the suit-prone situation. All of the educationally prepared groups were so close in scoring on the suit-prone situations, it makes it difficult to suggest any reason for the ranking of one group over another. The "malpractice"

category showed that the age group 31-35 years scored highest. This age group tended to have nurses who graduated from diploma programs. With the trend for continuing education, nurses from this age group may have returned to continue their nursing education. With this return to school, these nurses have been exposed to the same current information as the new graduate. Along with this continuing education focus, these nurses have a vast amount of clinical practice, exposing themselves to situations of legal liability.

The category of "negligence" ranked as one of the highest scored with the oldest age group of nurses. The associate-prepared nurses scored highest in this category. The experience gained from the years of clinical practice could be the contributing component to the scoring in this category. Limited exposure to legal issues probably existed in associate nursing programs when these nurses attended, yet with the recent exposure of hospitals to legal implications, these nurses have been exposed to legal issues through hospital programs.

The last category "res ipsa loquitur" doctrine was scored highest by the associate-prepared nurses in the 26-30 year age category. It is difficult to associate any reason to the ranking of the groups with

this category. The doctrine is one that is not discussed much and so awareness is limited.

Other analysis from data obtained verified that the oldest group of nurses who participated was 40-45 years, with the major percentage of nurses below the age of 36 years. Overall, the nursing staff responding to the questionnaire was young. The younger age groups ranked higher on the questionnaire, and thus knew more about the legal issues tested according to this tool. Younger nurses are usually recent graduates and with their recent education, have had exposure to the "current trends" and concepts of the profession. Legal issues are one of those concepts and awareness is one of those trends. New graduates typically are accustomed to the routine of reading the literature, and carry their enthusiasm for "keeping current" into the work field. The recent graduate has had few years of clinical practice. The current theory and techniques learned in school are fresh. They have not been exposed to interfering concepts that could lead to forgetting as described in the theory of "Forgetting."

Previous legal experience was not significant in this study as only two nurses had any previous experience. Their scores were not indicative of any

type of significant relationship with their previous experience. The questions regarding legal responsibility were ranked on a scale of 1-5, with 1 as absolutely "No" and 5 as being absolutely "Yes." Of the sample measures, 76% of the registered nurses expressed that they were legally liable for their actions by rating the answer with a 5, 24% rated the answer with a 4. In answer to the question requesting need for more information about legal liability, the ratings were 5-59%, 4-19%, 3-19%, 2-3%. The ratings of these two questions ranked appropriately to the overall scoring of the questionnaire. In summarizing the questionnaire, this study does indicate the level of legal knowledge of registered nurses. The analysis indicates a need for further education about legal issues at Woman's Hospital of Acadiana. The categories of legal awareness requiring the major focus for education are a) standard of care, b) liability, c) suit-prone situation, and d) *res ipsa loquitur* doctrine.

CHAPTER V

SUMMARY AND IMPLICATIONS

FOR NURSING

Summary

This investigation undertook the analysis of legal knowledge by registered nurses at Woman's Hospital of Acadiana. The purpose was to determine if there was a relationship with the independent variables of sex, age, education, clinical experience, and previous legal experience with the dependent variable legal knowledge. An additional purpose was to test a measurement tool to assess nurses' knowledge of legal implications in their nursing practice.

In order to assess nurses' legal knowledge, a questionnaire was utilized. The questionnaire was subdivided into categories representing topics of legal knowledge. The topics represented were: malpractice, standard of care, liability, negligence, suit-prone situations, and res ipsa loquitur doctrine.

The questionnaire was administered to a random sample of full-time registered nurses in Lafayette,

Louisiana to be completed. The questionnaire was scored according to answers marked correctly. The questions evaluated represented an overall total score as well as score per category. The independent variables were correlated with each individual category score and then summarized to analyze a nurse's overall legal knowledge.

The overall total score suggested that the registered nurses at Woman's Hospital of Acadiana have a basic understanding of legal issues. The summary of the questionnaire indicates that the categories of standard of care, liability, suit-prone situations, and *res ipsa loquitur* doctrine require additional education for the staff.

The age group range suggests that the majority of registered nurses are relatively young and graduates of nursing programs within the past five years. The newly graduated nurses tend to score higher on categories of the questionnaire where clinical practice was not significant to their knowledge of legal issues, while experienced nurses scored highest on those categories where it was suggested that clinical experience contributed to their knowledge of legal issues. The educational preparation of the nurses varied, from associate, diploma, or baccalaureate with the majority

of the nurses graduating from baccalaureate degree programs.

Implications for Nursing

Malpractice litigation is a growing problem in today's health care. At one time, physicians and hospitals were the only health care providers involved in litigation settlements. Today, nurses as well as other health care professionals are included.

The implication for nursing is important to this investigator. As the trend for malpractice becomes more evident, nursing must meet the challenge of awareness and understand the implications of their method of practice. It is essential that nurses understand what governs and guides clinical practice.

This study evaluated legal awareness and from its results, a suggestion for education is made both through the education system as well as in the hospital setting. At the basic nursing education level, curriculums should include issues on legal implications. As the future of health care continues to unravel and society gains more exposure, legal awareness becomes more significant to the health care provider. Hospitals need to make every effort to include in orientation and inservice programs, courses to make nurses aware of their legal liabilities.

Clearly defined policies and procedures established in hospitals must direct appropriate action more closely. The hospital needs to be fully aware of its role in the supervision of its employees. Quality control should be a heavily supported program as a tool to evaluate the quality of care provided to the patient. It is important that nursing personnel be credentialed to adequately verify knowledge and skill level.

Lastly, but most importantly, the nurse must individually accept responsibility for maintenance of knowledge and technical skill. Only the individual nurse can actually identify needs for improvement. Nurses need to be aware of standards established by their state practice acts, professional organizations and hospitals. They should be responsible for their own credentialing requirements. Continuing education needs must be maintained. Hospitals or other health care employers are responsible for the delivery of quality health care and will continue to enforce upon the nurse the requirement of competency, but the responsibility to obtain the knowledge and skills to maintain this competency lies with the nurse.

Recommendations for Further Studies

There are four recommendations the author suggests for further studies based on the data and findings of this investigation:

1. A similar study using a larger sample size should be undertaken. The study could extend to other institutions for data gathering which would entail a wider variation in the demographic data.

2. A similar study in which a pretest is given, followed by an inservice on legal issues is recommended. A posttest should then follow to evaluate the amount of learned knowledge.

3. A study to assess the types of incidents that occur in a hospital on an annual basis should be conducted to evaluate if there is any relationship with the independent variables examined in this study.

4. A study to evaluate nurses' legal knowledge through a different measurement tool is recommended.

5. A study to assess nursing programs and evaluate the content of legal issues presented in their curriculums would be valuable.

The future of health care brings many challenges to nurses and other health care professionals who provide care. This study addresses only a minute

portion of one of those challenges. It just opens the door to the vast awareness nurses must strive for.

APPENDIX

QUESTIONNAIRES

Dear Participant:

This questionnaire is a tool developed to measure nurses' awareness of legal responsibility. The data are being collected for research here at Woman's Hospital of Acadiana as fulfillment of a master's thesis requirement and as an assessment to identify ongoing legal educational needs here at this institution. From this information obtained, legal awareness seminars will be suggested.

You have been selected by the researcher to participate in the research project. Under no circumstance are you obligated to do so. You may withdraw your participation at any time without obligation. The information will remain confidential in that only those individuals required in the research process will have access to it. A copy of the results will be available at this hospital with the Director of Nursing.

Please fill out the questionnaire as indicated. Mark only one correct answer for each question. Each case study should be read thoroughly prior to answering the questions in those sections.

When you have finished, return the complete questionnaire to me.

Thank you for your support in this research project. I hope you will also find the results beneficial to meeting your needs.

Sincerely,

Debbie Wirth, RN
Researcher

DW/elg

Legal Case Study Questionnaire*

Problem No. 1.

Nurse Smith is a licensed R.N. who generally works as a private-duty nurse. A local hospital employs Nurse Smith to help out over a holiday weekend. While assigned to duty in the obstetrical ward, she notices an elderly female patient in obvious respiratory distress in the adjacent hallway. Going to her aid, she administers improper treatment, which causes the patient's condition to worsen. The patient later sues Nurse Smith for the harm suffered.

1-1 As indicated, Nurse Smith is normally employed as a private-duty nurse. While so employed, she can be held legally liable

___ when she fails to act as other reasonably prudent nurses would act under similar circumstances

___ when the patient's condition deteriorates or the patient dies during her period of employment

___ when she does not follow the doctor's orders exactly to the letter.

1-2 The legal term for a person's failure to act in a reasonable and prudent manner is

___ negligence

___ malpractice

___ unethical conduct.

1-3 Only a person with professional training can be held liable for

___ damages

___ malpractice

___ negligence.

*From The nurse's liability for malpractice, by E. Bernzweig, © 1975, McGraw-Hill Book Company. Used with permission of McGraw-Hill Book Company.

1-4 While employed by the hospital, Nurse Smith was legally responsible for exercising a special duty of care with respect to

- ☐ patients in her assigned ward only
- ☐ any of the hospital's patients she might have had occasion to treat
- ☐ none of the hospital's patients, because of her status as a private-duty nurse.

1-5 A legal nurse-patient relationship is based upon what necessary factor?

- ☐ the provision of nursing care to someone by a person with professional nurse's training
- ☐ the consent of the patient to receive nursing care from a particular nurse
- ☐ the patient's legal capacity to enter into a contract of employment.

1-6 Whether a nurse acted with reasonable care in a given situation is judged mainly by

- ☐ the extensiveness of her experience and training
- ☐ her conduct compared with that of other nurses with similar training under comparable circumstances
- ☐ the degree to which she adhered to a physician's orders or followed hospital routine.

1-7 The standard of care applied to a nurse's conduct in emergency situations recognizes what key legal fact?

- ☐ The fact that the surrounding circumstances must be considered in deciding the issue of negligence
- ☐ The fact that normal prudence need not be exercised in an emergency situation
- ☐ The fact that no standard of care applies in emergency situations.

Problem No. 2.

Nurse Simpson is the head nurse in a state mental hospital. This state recognizes the common-law rule regarding immunity from tort liability. One day Nurse Simpson assigns Miss Newby, an 18-year-old nursing student, to care for a manic-depressive patient with known suicidal tendencies. Nurse Simpson gives no instructions whatever to Miss Newby, and the latter's consequent inattention to the patient materially aids another suicide attempt--this time resulting in total paralysis.

2-1 When a nursing student performs duties customarily performed by R.N.s, what standard of care applies to her conduct?

- ☐ The student is held to a lower standard of care than an R.N.
- ☐ The student is held to the same standard of care as an R.N.
- ☐ The student is held to a higher degree of care than an R.N.

2-2 Assuming that a court finds Nurse Newby negligent in this case, what effect (if any) might this have on Nurse Simpson's liability?

- ☐ It will have no effect whatever
- ☐ Nurse Simpson automatically will be held liable as Nurse Newby's supervisor
- ☐ Nurse Simpson can be held liable only if she is held to be negligent in making the assignment to an inexperienced nurse.

2-3 With respect to the hospital's liability (if any), which of the following is true?

- ☐ The hospital cannot be held liable in this case
- ☐ The hospital can be held liable only if Nurse Newby is held liable
- ☐ The hospital can be held liable if either Nurse Newby or Nurse Simpson is held liable.

2-4 If Nurse Newby, when given the assignment, sincerely believed she was not sufficiently experienced to cope with a manic-depressive patient, how should she have met her legal responsibility to the patient?

- ☐ She should have discussed the proper technique with other competent nurses
- ☐ She should have made a note of her inexperience on the patient's chart
- ☐ She should have declined to carry out the assignment, explaining her reasons to her supervisor before so doing.

2-5 With respect to the issue of liability in this case, which of the following is correct?

- ☐ Only the hospital can be held liable
- ☐ Only Nurse Newby can be held liable
- ☐ Both Nurse Newby and Nurse Simpson can be held liable, but not the hospital.

Problem No. 3.

Nurse Brown is an experienced R.N. employed as an office nurse for Dr. Swift. One particularly busy day, the doctor tells Nurse Brown: "Mrs. Long is complaining about a variety of symptoms which are indicative of mild hypertension. Take her blood pressure and reassure her, and if her blood pressure seems elevated, give her a prescription for (name of drug), the usual dose. You can sign my name on the prescription and don't worry about anything; I'll take full responsibility.

Nurse Brown follows Dr. Swift's instructions to the letter and gives Mrs. Long a prescription for her hypertension. The next day, in discussing the case with Nurse Brown, Dr. Swift notes that she erroneously wrote a prescription for a similar-sounding, but actually different, drug. By the time he is able to contact Mrs. Long, he learns she has suffered a severe reaction to the prescribed drug and has had to be hospitalized. Mrs. Long later sues both Nurse Brown and Dr. Swift for malpractice.

3-1 If Nurse Brown is held liable for her conduct in this case, she will be held liable under the doctrine of

- ☐ agent's liability
- ☐ personal liability
- ☐ respondeat superior.

3-2 The doctrine of personal liability is a legal rule which

- ☐ protects nurses against lawsuits for malpractice
- ☐ makes some persons liable for the negligence of others
- ☐ holds everyone legally responsible for his own negligent conduct.

3-3 The legal doctrine of respondeat superior applies to the acts of

- ☐ nurses only
- ☐ all types of employees
- ☐ professional employees only.

3-5 In legal effect, the doctrine of respondeat superior provides that

- ☐ an employee can be held liable for the negligent acts of a coworker
- ☐ an employer can be held liable for the negligent acts of his employees
- ☐ employees and their employers are jointly liable for the negligent conduct of each other.

3-6 The doctrine of respondeat superior comes into play only when the following three relationships are present (select one):

- ☐ nurse-patient-physician

- ☐ employer-employee-negligent conduct
 - ☐ hospital-nurse-physician.
- 3-7 If Mrs. Long sues Dr. Swift alone and is successful in making a recovery, which of the following is true?
- ☐ Dr. Swift can legally recover from Nurse Brown the amount he is required to pay Mrs. Long
 - ☐ Dr. Swift cannot legally recover from Nurse Brown the amount he is required to pay Mrs. Long.
- 3-8 What legal effect (if any) resulted from Dr. Swift's statement that he would take "full responsibility" for Nurse Brown's conduct?
- ☐ It provided Nurse Brown with a complete legal defense to any lawsuit brought against her personally
 - ☐ It did not alter the rule of personal liability insofar as Nurse Brown's conduct was concerned
 - ☐ It altered the rule of personal liability insofar as Nurse Brown's conduct was concerned.
- 3-9 In what significant manner (if any) did Nurse Brown's conduct constitute unreasonable care?
- ☐ She signed the prescription form without showing it to the doctor
 - ☐ She undertook to diagnose the patient's condition and prescribe for her
 - ☐ She was not unreasonable since she followed the doctor's orders in all respects.

Problem No. 4.

Mr. Green sustains an eye injury while at work and immediately seeks medical aid from the company nurse, Mrs. Owen. She inspects the injury, concludes

it is only a superficial laceration, and gives only minimal treatment. One week later, Mr. Green's eye becomes extremely painful and an ophthalmologist discovers a piece of metal embedded in the eye. The delay in the discovery and removal of the metal results in blindness in the eye, and Mr. Green promptly sues Nurse Owen for the permanent disability thus sustained.

4-1 The plaintiff in this suit is

- ☐ Mr. Green
- ☐ Nurse Owen
- ☐ Mr. Green's employer.

4-2 What fact (if any) would show the existence of a nurse-patient relationship between Mr. Green and Nurse Owen?

- ☐ No nurse-patient relationship existed
- ☐ Both were employed by the same company
- ☐ Nurse Owen treated Mr. Green for his injury.

4-3 How will the issue of Nurse Owen's negligence have to be proved?

- ☐ by Mr. Green's testimony about what occurred
- ☐ by medical records of the treatment given by Nurse Owen and by the ophthalmologist
- ☐ by the testimony of experts concerning the standard of care applicable in the case.

4-4 Mr. Green and Nurse Owen work for the same employer. What legal effect (if any) does this have with respect to the question of liability?

- ☐ It has no legal effect whatever
- ☐ The employer can be held liable along with Nurse Owen.

Problem No. 5.

Consider the following two hospitalized patients:

Patient A is a 55-year-old artist admitted to the hospital for elective surgery. He is aloof, impatient, and generally critical of others.

Patient B is a 30-year-old, unmarried woman who has been in and out of mental hospitals for many years, seeking treatment for a mental psychosis which has incapacitated her.

5-1 Which of these two patients (if either) exhibits traits calculated to make him or her "suit-prone?"

- ☐ Patient A
- ☐ Patient B
- ☐ both patients
- ☐ neither patient.

5-2 Which of the following is a good description of a suit-prone patient?

- ☐ He has an intimate knowledge of the law and is familiar with courtroom procedures
- ☐ He has a genuine appreciation for the law and lawyers
- ☐ He prefers dealing with persons who antagonize him by suing them.

5-3 If a nurse recognizes a patient as being suit-prone, how should she react to him in order to avoid the threat he represents?

- ☐ She should be impersonal and spend as little time with him as possible
- ☐ She should be sympathetic and attentive to all his physical as well as emotional needs, even if she has to spend a little more time with him than with other patients

— She should be aggressive and forceful in dealing with him, concentrating on meeting all his physical needs but not catering to his emotional demands.

- 5-4 Assuming some relationship between a nurse's attitude toward her patients and their later likelihood of suing her for an act of malpractice, the nurse who is impersonal, impatient, and inflexible is

— more likely

— less likely

— neither more nor less likely

to be sued for malpractice than a nurse who is personal, patient, and flexible in her attitudes toward her patients.

- 5-5 Assume that Nurse N has occasion to treat both Patient A and Patient B while they are hospitalized and openly displays hostility and antagonism toward both of them. What additional element is necessary before she can be sued by either or both of them?

— She would have to have one or more serious arguments with either patient, leading to direct threats of a lawsuit

— She would have to cause some physical injury to either patient

— There would have to be evidence that either patient's condition worsened while he was being attended by Nurse N.

- 5-6 Which of the following expresses the most reasonable and most probably rule regarding the likelihood of malpractice claims?

— A malpractice claim will result whenever there is an unfavorable medical event causing harm or injury to the patient

— A malpractice claim will result when a nurse's conduct causes harm or injury to the patient and her prior relationship with the patient was a poor one

- A malpractice claim will result whenever there is a breakdown in the personal relationship between nurse and patient.

Problem No. 6

Nurse Harvey is assigned to keep track of all pads and sponges used during a gallbladder operation, and the operating surgeon closes the incision only after being assured by Nurse Harvey that all sponges are accounted for. After the operation, the patient's complaint of continued abdominal pain causes the surgeon to suspect a foreign object. He reopens the incision the following day and finds a lap pad which had been overlooked during the first operation. The patient later sues Nurse Harvey for her negligence in counting the sponges and pads.

- 6-1 In order to win this case, what character of evidence will the plaintiff be required to offer?

- evidence more likely true than not
- evidence beyond all reasonable doubt
- evidence convincing to a majority of the jury.

- 6-2 What initial presumption of law exists in every malpractice case?

- the presumption that the defendant is free from negligence
- the presumption that the plaintiff's injury was due to the defendant's negligence
- the presumption that acts of malpractice are bound to occur in the normal course of events.

- 6-3 How does the so-called burden-of-proof rule affect Nurse Harvey in this case?

- She is presumed to be blameless and therefore has the jury's sympathy
- She does not have to prove her freedom from negligence

___ She does not have to prepare a defense.

6-4 Which two of the following items are essential for the plaintiff to prove in order to win this case?

___ proof of a nurse-patient relationship

___ proof of Nurse Harvey's qualifications to practice nursing

___ proof of Nurse Harvey's employment relationship with the hospital

___ proof of the act constitution negligence.

6-5 Under ordinary circumstances, how must the question of whether a nurse acted with reasonable care be proved?

___ by the defendant's explanation of what she did

___ by the testimony of experts

___ by the trial judge, after checking the outcome of prior similar court cases.

6-6 Assume that the doctrine of res ipsa loquitur applies in this case. What effect does it have on the question of proof of negligence?

___ Plaintiff does not have to introduce the testimony of experts to prove the defendant's negligence

___ Evidence of the defendant's negligence can be dispensed with entirely

___ The defendant is not required to prove her freedom from negligence.

6-7 What is the legal effect of the doctrine of res ipsa loquitur?

___ The defendant is considered liable whether or not she can show proof of her due care

___ The nurse's negligence becomes a legal question to be decided by the trial judge

- ☐ The circumstances under which the injury occurred create an inference that the nurse was negligent, which she must disprove.

No. 7 Miscellaneous Questions

7-1 When a nurse offers her services as a private-duty nurse, which of the following legal doctrines cannot apply to her conduct?

- ☐ the rule of personal liability
- ☐ the rule of respondeat superior
- ☐ res ipsa loquitur.

7-2 What is the rule with respect to the giving of emergency care outside the nurse's normal work duties?

- ☐ She has an ethical, but not a legal, obligation to render such care.
- ☐ She has both an ethical and a legal obligation to render such care
- ☐ She has a legal, but not an ethical, obligation to render such care.

7-3 Which of the following "surrounding circumstances" would most likely relieve a nurse of liability for her conduct?

- ☐ the fact that the nurse is a student
- ☐ the fact that the care was given under emergency conditions
- ☐ the fact that the nurse was exhausted or ill.

7-5 Nurse N admits to an act of malpractice. She can avoid liability if she can show

- ☐ that the patient contributed to his own injury
- ☐ that she has sufficient malpractice insurance to cover all claims
- ☐ that many other nurses have committed similar acts of malpractice and avoided liability.

- 7-6 Under what circumstances (if any) may a nurse make a diagnosis?
- under no circumstances, since this is the physician's responsibility
 - whenever she believes she has sufficient experience to do so
 - whenever she is required to evaluate the patient's condition to determine his specific needs for nursing care.
- 7-7 What is the nurse's legal duty with regard to carrying out a physician's order?
- She must follow the order to the letter unless in her professional judgment some other course of treatment would be more effective
 - She must follow the order without question unless she has reason to believe some harm may result to the patient
 - She must always discuss the order with the physician before carrying it out.

Demographic Data Questionnaire

1. Age _____ 2. Sex _____
3. Highest degree held in nursing.
- ___ A.D.
- ___ B.S.
- ___ M.S.
- ___ Ph.D.
- ___ Other _____
4. How many years of experience do you have in a hospital acute care setting?
- ___ less than 1 year
- ___ 1-3 years
- ___ 4-6 years
- ___ 7-9 years
- ___ 10 years and over
5. How many years have you practiced in the state of Louisiana as a registered nurse?
- ___ less than 1 year
- ___ 1-3 years
- ___ 4-6 years
- ___ 7-9 years
- ___ 10 years and over
6. In what type of nursing unit do you have the majority of your nursing clinical experience?
- | | | |
|-----------|-------------|-----------------|
| ___ OB | ___ NBICU | ___ Other _____ |
| ___ GYN | ___ ICU | ___ OR |
| ___ L & D | ___ Medical | ___ Surgical |

7. Have you been involved in any legal action as a professional R.N.?
- ☐ yes
- ☐ no
8. What type of education have you received about medical legal aspects?
- ☐ basic nursing education
- ☐ inservices in previous work settings
- ☐ publications
- ☐ other _____
- ☐ none
9. Have you attended any legal workshops within the past year?
- ☐ yes
- ☐ no
10. Have you read your state nurse practice act?
- ☐ yes
- ☐ no

Rate the following four questions according to the scale provided below.

absolutely	_____					absolutely
no	1	2	3	4	5	yes

11. Do you feel you are legally liable for your actions as a registered nurse?
- Rating _____
12. Do you feel legal awareness is an important responsibility for a registered nurse?
- Rating _____

13. Do you feel you are fully aware of your legal liability as a registered nurse?

Rating _____

14. Do you feel you need more information about your legal liability?

Rating _____

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